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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/668,637

09/22/2003

Jonathan T. Miller

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7590 04/09/2008  
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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

04/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/668,637	<b>Applicant(s)</b> MILLER, JONATHAN T.	
	<b>Examiner</b> CHI Q. NGUYEN	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) 1-34,36,44,47 and 69-71 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-43,46,48-50,60 and 61 is/are allowed.
- 6) ☒ Claim(s) 35,37,38,45,54-57 and 62-66 is/are rejected.
- 7) ☒ Claim(s) 51,52,58,59,67 and 68 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's election with traverse of claims 35-68 in the reply filed on 8/24/2007 is acknowledged. The traversal is on the ground(s) that newly filed claim 69-71 are drawn to multiple atriums. This is not found persuasive because the original claim 35 and its dependencies are drawn to only one atrium.

The requirement is still deemed proper and is therefore made FINAL.

#### ***Status of Claims:***

Claims 1-34, 36, 44, and 47 have been cancelled.

Claims 69-71 are drawn to non-elected claims.

Claims 35, 37-43, 45-46, 48-62, and newly filed claims 63-68 are pending.

#### ***Claim Rejections - 35 USC § 102***

Claims 35, 37-38, 45, 53-55, 57, and 62 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 4,608,785 to Rhodes et al.

Claims 35, 53, and 63-66:

Rhodes discloses a multiple unit residential building 10 (col. 1, line 51) comprising a concrete foundation (Fig. 1), a number of residential units constructed above the concrete foundation, wherein at least some of the number of units bordering at least a portion of an atrium 16 having at least a public portion B (see attached Fig. 1) formed the concrete foundation, each unit including a semi-public area A adjacent to an entrance into the unit and adjacent to the atrium, the public portion having a common

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area 28 for ingress and egress from outside the building connected the atrium and a number of level including a basement located below the atrium and on the concrete foundation, and a number of levels 20 and wherein the concrete foundation is on a first level and the atrium extends upward through a number of levels.

Claims 37 and 54:

Wherein the building has a number of levels and wherein the concrete foundation is on a first level and the atrium extends upward through a number of levels and the basement located below the atrium.

Claim 38:

Wherein the common area has an elevator 32 therein.

Claims 45 and 62:

Wherein the basement 58 includes a number of parking spaces for parking automobiles (see Fig. 1).

Claim 55:

Wherein each unit inherently has a foyer adjacent to the front entrance.

Claim 57:

Wherein each of the semi-public areas is arranged such that access from the public area to each of the units as accomplished by passing through one of the semi- public areas and through the front entrance of the unit.

***Claim Rejections - 35 USC § 103***

Claim 56 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 4,608,785 to Rhodes et al.

Rhodes discloses the basic structural elements for building as stated but does not specifically teach wherein each unit includes a semi-public unit area proximate to the unit and wherein the atrium includes a public area positioned between each unit and each semi-public area. However, this feature would have been a matter of obvious arrangement to one of ordinary skill in the art at the time the invention was made. Furthermore, applicant has not disclosed the criticality of this feature.

#### ***Allowable Subject Matter***

Claims 39-43, 46, 48-50, and 60-61 were previously allowed.

Claims 51-52, and 58-59 were previously and claims 67-68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 4/19/2007 have been fully considered but they are not persuasive.

Applicant argues the prior art does not teach or including a semi-public area adjacent to an entrance into the unit and adjacent to the atrium. Examiner does not agree with the applicant's arguments because the prior art (US 4,608,785) is clearly disclosed a semi-public portion "A" (see previous attachment of Fig. 2) adjacent to an entrance (wherein 28 points to) into the unit and adjacent to the atrium 16. Examiner

believes the prior art disclose every structural elements of the applicant's claimed invention therefore the rejections will be maintain and made it final.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./  
Examiner, Art Unit 3635  
/Richard E. Chilcot/

Supervisory Patent Examiner, Art Unit 3635

<div>Application Number</div> <div></div>	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/668,637	MILLER, JONATHAN T.	
	Examiner	Art Unit	
	CHI Q. NGUYEN	3635	